

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
NPCR, Inc. d/b/a Nextel Partners)	DA 04-2667
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the State of Alabama)	
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the State of Florida)	
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the State of Georgia)	
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the State of New York)	
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the Commonwealth of Pennsylvania)	
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the State of Tennessee)	
)	
Petition for Designation as an)	
Eligible Telecommunications Carrier)	
in the Commonwealth of Virginia)	

**SUPPORTING COMMENTS
of the
ORGANIZATION FOR THE PROMOTION AND ADVANCEMENT
OF SMALL TELECOMMUNICATIONS COMPANIES**

I. INTRODUCTION

The Organization for the Promotion and Advancement of Small Telecommunications Companies (OPASTCO) hereby submits these comments in support of the Application for Review filed by the Rural Local Exchange Carriers (RLECs)¹ regarding the designation of NPCR, Inc. d/b/a Nextel Partners (Nextel) as an eligible telecommunications carrier (ETC) in various states.² OPASTCO is a national trade association representing over 560 small incumbent local exchange carriers (ILECs) serving rural areas of the United States. Its members, which include both commercial companies and cooperatives, together serve over 3.5 million customers. All of OPASTCO's members are rural telephone companies as defined in 47 U.S.C. §153(37).

II. COMMENTS

On February 27, 2004, the Federal-State Joint Board on Universal Service (Joint Board) released a *Recommended Decision*, that proposes to limit support to primary lines and to adopt federal guidelines for the designation of ETCs.³ Shortly thereafter, the Commission issued a Notice of Proposed Rulemaking, seeking comment on this *Recommended Decision*.⁴ Most recently, the Joint Board released a Public Notice seeking comment on issues related to the rural high-cost support mechanism to succeed

¹ Application for Review of the Rural Local Exchange Carriers, CC Docket No. 96-45 (filed Sept. 24, 2004) (RLECs' Application).

² *Federal-State Joint Board on Universal Service, NPCR, Inc. d/b/a Nextel Partners Petitions for Designation as an Eligible Telecommunications Carrier in the States of Alabama, Florida, Georgia, New York, Pennsylvania, Tennessee, and Virginia*, CC Docket No. 96-45, Order, DA 04-2667 (rel. Aug. 25, 2004).

³ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Recommended Decision, 19 FCC Rcd 4257 (2004).

⁴ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Notice of Proposed Rulemaking, 19 FCC Rcd 10800 (2004).

the five-year framework approved in the Rural Task Force Order.⁵ It is quite possible that, as a result of these proceedings, there will be some changes in the way in which competitive ETCs are designated, and in the level of support that they receive.⁶

Consequently, the Rural LECs are correct in urging that all seven of the Nextel ETC designations recently approved by the Wireline Competition Bureau should be reversed by the Commission. Additionally, the Bureau should be directed to defer consideration of the Nextel ETC Petitions, as well as other pending petitions for ETC designation in rural service areas, until after the Commission completes the proceedings that are considering changes to the rules relating to rural high-cost support and the process for designating ETCs.

In comments filed on the various ETC petitions, numerous parties have recommended that until the issues being considered in the universal service proceedings are resolved, the Commission should stay the approval of additional ETC applications.⁷ OPASTCO agrees with these commenters, as well as with arguments made by the Rural LECs, that the public interest would be best served by preventing the USF from growing out of control at the same time that key policies related to universal service support levels

⁵ *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Service Support*, CC Docket No. 96-45, Public Notice, FCC 04-J-2 (rel. Aug. 16, 2004).

⁶ *See*, RLECs Application, p. 5. *See also*, Citizens Telecommunications Company of New York (Citizens) Comments in CC Docket No. 96-45 (filed June 21, 2004), p. 13.

⁷ *See*, Citizens Comments, pp. 13-14; Comments of the New Hampshire Rural Carrier Group (NH LECs) in CC Docket No. 96-45 (filed June 21, 2004), pp. 3-4; Comments of New York State Telecommunications Association, Inc. in CC Docket No. 96-45 (filed June 21, 2004), pp. 12-13; Comments of NTELOS Telephone Companies in CC Docket No. 96-45 (filed June 21, 2004), p. 3; Comments of TDS Telecommunications Corp. (TDS) in CC Docket No. 96-45 (filed June 21, 2004), pp. 2-7; Comments of Verizon in CC Docket No. 96-45 (filed June 21, 2004), pp. 2, 6-7. (The NH LECs filed identical comments for both of the ETC applications filed in their state. Similarly, TDS filed identical comments in response to each of the ETC applications for the states of Florida, New Hampshire, and Virginia.)

and ETC designations are currently under review.⁸ Thus, reversing the Bureau's approval of the recent Nextel ETC designations, and staying the review of these and other pending ETC applications, would be a prudent way to address the rapid growth of the Fund, until these portability issues are resolved.⁹

⁸ See, RLECs Application, pp. 7-8. In its white paper *Universal Service in Rural America: A Congressional Mandate at Risk*, OPASTCO estimated that if all CMRS providers nationwide were to apply for and receive ETC status, the annual funding level of the High-Cost program would increase by approximately \$2 billion. This would seriously compromise the continued ability of the High-Cost program to ensure the provision of affordable and "reasonably comparable" services and rates to consumers in the most remote regions of the nation. See, Stuart Polikoff, *Universal Service in Rural America: A Congressional Mandate at Risk*, OPASTCO (January 2003), p. 21.

⁹ There is a related precedent for staying the approval of additional ETC applications. In order to moderate the Fund's growth during its pending Part 36 USF rulemaking proceeding, the Commission imposed an interim cap on USF support for local exchange carriers from January 1, 1994 until January 1, 1996. See, *Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, CC Docket No. 80-286, Report and Order, 9 FCC Rcd 303 (1993), Erratum (1993). After an initial extension, the interim cap was further extended until May 8, 1997, so as to facilitate the transition to the new universal service rules that were adopted at that time. See, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 11 FCC Rcd 7920 (1996).

III. CONCLUSION

For the foregoing reasons, all seven Nextel ETC designations identified in the RLECs' Application should be reversed and stayed pending the resolution of the proceedings that are considering changes to the calculation of high-cost support for competitive ETCs and the development of policy guidelines for the review of ETC applications.

Respectfully submitted,

**THE ORGANIZATION FOR THE
PROMOTION AND ADVANCEMENT OF
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October 12, 2004

CERTIFICATE OF SERVICE

I, Jeffrey W. Smith, hereby certify that a copy of the comments by the Organization for the Promotion and Advancement of Small Telecommunications Companies was sent by first class United States mail, postage prepaid, on this, the 12th day of October, 2004, to those listed on the attached list.

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